



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 64

RIN 2900-AO35

Grants for the Rural Veterans Coordination Pilot (RVCP)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as a final rule, without change, the proposal to establish a pilot program known as the Rural Veterans Coordination Pilot (RVCP). The RVCP will provide grants to eligible community-based organizations and local and State government entities to be used by these organizations and entities to assist veterans and their families who are transitioning from military service to civilian life in rural or underserved communities. VA will use information obtained through the pilot program to evaluate the effectiveness of using community-based organizations and local and State government entities to improve the provision of services to transitioning veterans and their families. Five RVCP grants will be awarded for a 2-year period in discrete locations pursuant to a Notice of Funds Availability (NOFA) to be published in the Federal Register.

DATES: Effective Date: This final rule is effective [insert date 30 days after publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen Malebranche, Veterans Health Administration, Office of Interagency Health Affairs (10P5), 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 461-6001. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

On May 5, 2010, the President signed into law the Caregivers and Veterans Omnibus Health Services Act of 2010 (2010 Act), Public Law 111-163. Section 506(a) of the 2010 Act, codified at 38 U.S.C. 523 note, requires VA to establish a pilot program to assess the feasibility and advisability of using community-based organizations and local and State government entities to assist veterans and their families who are transitioning from military service to civilian life in rural or underserved communities. In addition, section 506(c)(2) of the 2010 Act instructs VA to carry out the program in five locations to be selected by the Secretary of Veterans Affairs. In a document published in the Federal Register on July 18, 2012 (77 FR 42230), VA proposed regulations to establish the RVCP to meet the requirements of section 506(a). We provided a 60-day comment period, which ended on September 17, 2012, during which we received four comments from members of the general public.

The first commenter indicated support for the pilot and commented on the need for monitoring to ensure the success of the program. VA appreciates this comment and assures the commenter that the program will be carefully monitored and assessed. We do not make any changes to the regulation based on this comment.

A second commenter asked whether five locations will be sufficient to carry out the purpose of the pilot and whether outreach can be provided to veterans and their

families to inform them about the availability of RVCP to help them get to VA for their appointments.

VA is limited by the express language of the 2010 Act to using five locations for the RVCP. Section 506(c)(1) of the 2010 Act specifically states that “the pilot program shall be carried out at five locations selected by the Secretary for purposes of the pilot program.” Therefore, we cannot expand the RVCP beyond five locations.

Regarding the commenter’s concerns about outreach, outreach is one of the four permissible uses of RVCP funds, and this is reflected in § 64.6(a)(4), which authorizes grantees to provide, develop or deploy strategies to reach transitioning veterans and their families. Therefore, we do not make any changes based on this comment.

A third commenter echoed the issue raised in the previous comment regarding the reliance on five sites and stated that “[t]here is an extreme need for this pilot and I congratulate those who are putting forth the effort to make this happen. I reviewed the ‘underserved’ areas defined within my state of Florida, more specifically in and around the Jacksonville area and found that there are areas designated as underserved within the metro area. With that said, I would have to agree with a commented concern: if five service grants would provide the overall benefit and or statistical data in which the grants are seeking to obtain?” VA agrees that there are significant populations in metropolitan areas that meet the definition of “underserved” as set out in the proposed rule. That definition incorporates three of the four types of areas that VA must consider in selecting locations for an RVCP grant, as set forth in section 506(c)(2) of the 2010 Act. The fourth type of area that VA must consider in choosing the five locations is rural areas. See Pub. L. 111-163, Sec. 506(c)(2)(A). In the proposed regulations, we did not

limit locations to rural areas; under § 64.10(b)(3), applicants for grants must show that the proposed project location qualifies either as a rural area or as having an underserved community. Scoring and selection criteria in § 64.12(a)(6) weigh these considerations equally. Therefore, we do not make any changes to the regulation based on this comment.

The final commenter asked that VA “explicitly incorporate universities as eligible entities for this grant.” VA has defined an “eligible entity” for the RVCP grant as a “community-based organization or a local or State government entity.” A local or State operated educational institution would be included under this definition. We do not believe it is necessary to revise the rule to state this expressly. The commenter has not indicated language in the rule that could mislead the public into believing that such institutions are excluded, and VA will not exclude them. Therefore, we do not make any changes based on this comment.

Based on the rationale set forth in the Supplementary Information to the proposed rule and in this final rule, VA is adopting the proposed rule as a final rule without any change.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA’s implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to

conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

Although this rule contains provisions constituting collections of information, at 38 CFR 64.10, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), no new or proposed revised collections of information are associated with this final rule. The information collection requirements for § 64.10 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 4040-0003, 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-0009, and 4040-0010. The reports required under § 64.16 will be collected only from the five award recipients and, therefore, do not constitute a collection of information as defined in section 3502(3)(A)(i) of the Paperwork Reduction Act of 1995.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by

OMB, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. There will be no negative economic impact on any of the eligible entities because the grantees will not be required to provide matching funds to obtain the maximum grant allowance. This pilot grant program will not impact a substantial number of small entities because only five non-renewable grants will be awarded. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

At this time there are no Catalog of Federal Domestic Assistance numbers and titles for the program affected by this regulation. Catalog of Federal Domestic Assistance numbers and titles will be obtained when the program is established on the Grants.gov Web site.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on January 23, 2013, for publication.

List of Subjects in 38 CFR Part 64

Administrative practice and procedure, Disability benefits, Claims, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health records, Reporting and recordkeeping requirements, Veterans.

Dated: February 20, 2013

Robert C. McFetridge,
Director of Regulation Policy and Management,
Office of General Counsel,
Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR chapter I by adding part 64 to read as follows:

PART 64 – GRANTS FOR THE RURAL VETERANS COORDINATION PILOT (RVCP)

Sec.

64.0 Purpose and scope.

64.2 Definitions.

64.4 RVCP grants – general.

64.6 Permissible uses of RVCP grants.

64.8 Notice of Funds Availability (NOFA).

64.10 Application.

64.12 Scoring and selection.

64.14 RVCP grant agreement.

64.16 Reporting.

64.18 Recovery of funds.

Authority: 38 U.S.C. 501, 523 note.

§ 64.0 Purpose and scope.

(a) Purpose. The Rural Veterans Coordination Pilot (RVCP) program implements the requirements of section 506 of the Caregivers and Veterans Omnibus Health Services Act of 2010 to provide grants to community-based organizations and

local and State government entities to assist veterans who are transitioning from military service to civilian life in rural or underserved communities and families of such veterans.

(b) Scope. This part applies only to the administration of the RVCP, unless specifically provided otherwise.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.2 Definitions.

For the purpose of this part and any Notice of Funds Availability issued under this part:

Applicant means an eligible entity that submits an application for an RVCP grant as announced in a Notice of Funds Availability.

Community-based organization means a group that represents a community or a significant segment of a community and is engaged in meeting community needs.

Eligible entity means a community-based organization or local or State government entity. An eligible entity will be identified as the legal entity whose employer identification number is on the Application for Federal Assistance (SF 424), even if only a particular component of the broader entity is applying for the RVCP grant.

Grantee means recipient of an RVCP grant.

Limited access to health care means residing in an area identified by the Health Resources and Services Administration of the U.S. Department of Health and Human Services as “medically underserved” or having a “medically underserved population.”

Local government means a county, municipality, city, town, township, or regional government or its components.

Minority group member means an individual who is Asian American; Black; Hispanic; Native American (including American Indian, Alaskan Native, and Native Hawaiian); or Pacific-Islander American.

Notice of Funds Availability (NOFA) means a Notice published by VA in the Federal Register alerting eligible entities of the availability of RVCP grants and containing important information about the RVCP grant application process in accordance with § 64.8.

Participant means a veteran or a member of a veteran's family who receives services for which an RVCP grant is awarded.

Rural means an area classified as "rural" by the U.S. Census Bureau.

Rural Veterans Coordination Pilot (RVCP) refers to the pilot grant program authorized by section 506 of the Caregivers and Veterans Omnibus Health Services Act of 2010.

State government means any of the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State government.

Underserved communities are areas that meet one or more of the following criteria:

- (1) Have a high proportion of minority group representation;
- (2) Have a high proportion of individuals who have limited access to health care;

or

- (3) Have no active duty military installation that is reasonably accessible to the community.

VA means the U.S. Department of Veterans Affairs.

Veteran means a person who served in active military, naval, or air service, who was discharged or released under conditions other than dishonorable.

Veteran who is transitioning from military service to civilian life means a veteran who is separating from active military, naval, or air service in the Armed Forces to return to life as a civilian and such veteran's date of discharge or release from active military, naval, or air service was not more than 2 years prior to the date on which the RVCP grant was awarded.

Veteran's family means those individuals who reside with the veteran in the veteran's primary residence. These individuals include a parent, a spouse, a child, a step-family member, an extended family member, and individuals who reside in the home with the veteran but are not a member of the family of the veteran.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.4 RVCP grants – general.

(a) VA will award five RVCP grants to eligible entities as defined in § 64.2.

(b) An eligible entity may receive only one RVCP grant, and only one RVCP grant will be awarded in any one pilot project location (see § 64.12(a)(6)).

(c) RVCP grants will be awarded for a maximum period of 2 years, beginning on the date on which the RVCP grants are awarded. They will not be extended or renewable.

(d) A grantee will not be required to provide matching funds as a condition of receiving an RVCP grant.

(e) No participant will be charged a fee for services provided by the grantee or be required to participate in other activities sponsored by the grantee as a condition of receiving services for which the RVCP grant is made.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.6 Permissible uses of RVCP grants.

(a) Grantees must maximize the use of RVCP grants by ensuring that at least 90 percent of funds awarded are used to provide services designed to aid in the adjustment to civilian life in one or more of the following areas:

(1) Increasing coordination of health care and benefits for veterans. Examples include, but are not limited to, identifying sources of community, local, State, and Federal health care and benefits; obtaining necessary applications and assisting veterans in the preparation of applications for such care and benefits; and identifying and eliminating barriers to receiving identified benefits.

(2) Increasing availability of high quality medical and mental health services. Examples include, but are not limited to, increasing availability of or access to insurance or low- or no-cost public or private health care, including out-patient care, preventive care, hospital care, nursing home care, rehabilitative care, case management, respite care, and home care; providing assistance in accessing or using telehealth services; transporting veterans to medical facilities or transporting medical or mental health providers to veterans; and providing assistance in obtaining necessary pharmaceuticals, supplies, equipment, devices, appliances, and assistive technology.

(3) Providing assistance to families of transitioning veterans. Examples include, but are not limited to, helping obtain medical insurance for family members; helping the family obtain suitable housing; providing job-search assistance or removing barriers for family members seeking employment; assisting the family in identifying and applying to appropriate schools and/or child care programs; securing learning aids such as textbooks, computers and laboratory supplies; and obtaining personal financial and legal services.

(4) Outreach to veterans and families. Examples include, but are not limited to, the provision, development or deployment of various media tools (e.g., Internet, television, radio, flyers, posters, etc.), activity days, program booths, or other strategies to reach transitioning veterans and their families in the target community and assist them with their transition from military service to civilian life. Outreach services may be provided directly by the RVCP grantee or the grantee may engage the outreach services of another entity using RVCP funds.

(b) Grantees may use up to 10 percent of the RVCP grant for indirect costs, i.e., the expenses of doing business that are not readily identified with a particular grant but are necessary for the general operation of the grantee organization and the conduct of activities it performs.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.8 Notice of Funds Availability (NOFA).

When funds are available for RVCP grants, VA will publish a NOFA in the Federal Register and in Grants.gov (<http://www.grants.gov>). The NOFA will identify:

- (a) The location for obtaining RVCP grant applications, including the specific forms that will be required;
- (b) The date, time, and place for submitting completed RVCP grant applications;
- (c) The estimated total amount of funds available and the maximum funds available to a single grantee;
- (d) The minimum number of total points and points per category that an applicant must receive to be considered for a grant and information regarding the scoring process;
- (e) Any timeframes and manner for payments under the RVCP grant; and
- (f) Other information necessary for the RVCP grant application process, as determined by VA, including contact information for the office that will oversee the RVCP within VA.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.10 Application.

- (a) To apply for an RVCP grant, eligible entities must submit to VA a complete application package. Applications will be accepted only through Grants.gov (<http://www.grants.gov>).
- (b) A complete RVCP grant application package includes the following:
 - (1) A description of the services to be provided and which of the permissible uses for RVCP grants outlined in § 64.6(a) the services are intended to fulfill.

(2) A description, with supporting documentation, of the need for the proposed project in the proposed location, including an estimate, with supporting documentation, of the number of veterans and families that will be provided services by the applicant.

(3) A description, with supporting documentation, of how the proposed project location qualifies as a rural or an underserved community, as defined in this part.

(4) Documentation evidencing the applicant's experience in providing the proposed services, particularly to veterans and their families.

(5) Evidence of a clear, realistic, and measurable program of self-evaluation and monitoring, including a documented commitment to remediate any identified noncompliance.

(6) Documentation of the ability of the applicant to administer the project, including plans to:

(i) Continuously assess and adapt to the needs of participants for services under the RVCP grant;

(ii) Coordinate and customize the provision of services to the identified needs of the participants;

(iii) Comply with and implement the requirements of this part throughout the term of the RVCP grant; and

(iv) Complete and submit timely reports of RVCP grant activities.

(7) A description of any assistance received from or any consultations with VA or Veterans Service Organizations in the development of the proposal being submitted.

(8) Any additional information deemed appropriate by VA and set forth in the NOFA.

(Authority: 38 U.S.C. 501, 523 note)

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 4040-0003, 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-0009, and 4040-0010.)

§ 64.12 Scoring and selection.

(a) Scoring. VA will score only complete applications received from eligible entities by the established deadline. Applications will be scored using the following criteria:

(1) Background, organizational history, qualifications, and past performance (maximum 10 points). Applicant documents a relevant history of successfully providing the type of services proposed in the RVCP grant application, particularly in the location it plans to serve and/or to veterans and their families.

(2) Need for pilot project (maximum 10 points). Applicant demonstrates the need for the pilot project among veterans and their families in the proposed project location, and provides evidence of the applicant's understanding of the unique needs of veterans and their families in the location to be served.

(3) Pilot project concept, innovation, and ability to meet VA's objectives (maximum 40 points). Application shows appropriate concept, size, and scope of the project; provides realistic estimates of time, staffing, and material needs to implement the project; and details the project's ability to enhance the overall services provided,

while presenting realistic plans to reduce duplication of benefits and services already in place. Application must describe a comprehensive and well-developed plan to meet one or more of the permissible uses set out in § 64.6.

(4) Pilot project evaluation and monitoring (maximum 10 points). Self-evaluation and monitoring strategy provided in application is reasonable and expected to meet requirements of § 64.10(b)(5).

(5) Organizational finances (maximum 10 points). Applicant provides documentation that it is financially stable, has not defaulted on financial obligations, has adequate financial and operational controls in place to assure the proper use of RVCP grants, and presents a plan for using RVCP grants that is cost effective and efficient.

(6) Pilot project location (maximum 20 points). Applicant documents how the proposed project location meets the definition of rural or underserved communities in this part.

(b) Selection of grantees. All complete applications will be scored using the criteria in paragraph (a) and ranked in order from highest to lowest total score. VA will rank all applications that receive at least the minimum number of points indicated in the NOFA. VA will award one RVCP grant to the highest scoring application. VA will award RVCP grants to each successive application, ranked by total score, provided the applicant has not been awarded an RVCP grant for a higher scoring application and the proposed project is not in the same project location as any previously awarded RVCP grant.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.14 RVCP grant agreement.

(a) VA will draft an RVCP grant agreement to be executed by VA and the grantee.

(b) The RVCP grant agreement will provide that the grantee agrees to:

(1) Operate the project in accordance with this part and the terms of the agreement;

(2) Abide by the following additional requirements:

(i) Community-based organizations are subject to the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations under 38 CFR part 49, as well as to OMB Circular A-122, Cost Principles for Non-Profit Organizations, codified at 2 CFR part 230, and 2 CFR parts 25 and 170, if applicable.

(ii) Local and State government entities are subject to the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments under 38 CFR part 43, as well as to OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, and 2 CFR parts 25 and 170, if applicable.

(3) Comply with such other terms and conditions, including recordkeeping and reports for project monitoring and evaluation purposes, as VA may establish for purposes of carrying out the RVCP in an effective and efficient manner and as described in the NOFA; and

(4) Provide any necessary additional information that is requested by VA in the manner and timeframe specified by VA.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.16 Reporting.

(a) Quarterly reports. All grantees must submit to VA quarterly reports based on the Federal fiscal year, which include the following information:

(1) Record of time and resources expended in outreach activities, and the methods used;

(2) The number of participants served, including demographics of this population;

(3) Types of assistance provided;

(4) A full accounting of RVCP grant funds received from VA and used or unused during the quarter; and

(5) Results of routine monitoring and any project variations.

(b) Submission of reports. Reports must be submitted to VA no later than 15 calendar days after the close of each Federal fiscal quarter.

(c) Additional reports. VA may request additional reports to allow VA to fully assess project accountability and effectiveness.

(Authority: 38 U.S.C. 501, 523 note)

§ 64.18 Recovery of funds.

(a) Recovery of funds. VA may terminate a grant agreement with any RVCP grantee that does not comply with the terms of the RVCP agreement. VA may recover from the grantee any funds that are not used in accordance with a RVCP grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of

intent to recover RVCP grant funds, and the grantee will then have 30 days beginning from the date of the notice to submit documentation demonstrating why the RVCP grant funds should not be recovered. If the RVCP grantee does not respond or if the grantee responds but VA determines the documentation is insufficient to establish compliance, VA will make a final determination as to whether action to recover the RVCP grant funds will be taken.

(b) Prohibition of further grants. When VA determines action will be taken to recover grant funds from a grantee, the grantee will be prohibited from receiving any further RVCP grant funds for the duration of the pilot program.

(Authority: 38 U.S.C. 501, 523 note)

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